

12798 Edgemere Boulevard

City of El Paso — Plan Commission — 2/8/2018

PZRZ17-00031

Rezoning

REZONING



STAFF CONTACT: Andrew Salloum, 915-212-1603, SalloumAM@elpasotexas.gov

OWNER: Dual Enterprises, LLC

APPLICANT: Joe O'Leary

REPRESENTATIVE: Sonia Barrandey

LOCATION: 12798 Edgemere Boulevard, District 5

LEGAL DESCRIPTION: Lot 1, Block 166, Tierra Del Este Unit 48, City of El Paso, El Paso County, Texas

EXISTING ZONING: C-1 (Commercial)

REQUEST: To rezone from C-1 (Commercial) to C-2 (Commercial) to allow for a ballroom with Special Permit approval.

RELATED APPLICATIONS: PZST17-00037, Special Permit

PUBLIC INPUT Planning received a letter in opposition to the rezoning request, see attachment 6; Notices sent to property owners within 300 feet on January 25, 2018.

STAFF RECOMMENDATION: Approval (see pages 1—4 for basis for recommendation)

SUMMARY OF REQUEST: The applicant is requesting to rezone from C-1 (Commercial) to C-2 (Commercial) to allow for a ballroom with a special permit approval. The detailed site plan shows existing retail, restaurant, bar, future offices, and future ballroom. Access to the subject property is provided from Edgemere Boulevard and Tierra Fertil Drive.

SUMMARY OF RECOMMENDATION: The Planning Division recommends approval of rezoning the subject property from C-1 (Commercial) to C-2 (Commercial). The recommendation is based on compatibility with the surrounding properties zoned commercial district and uses within the area of the subject property, and in compliance with the Plan El Paso land use designation G-4, Suburban (Walkable) in the East Planning Area.

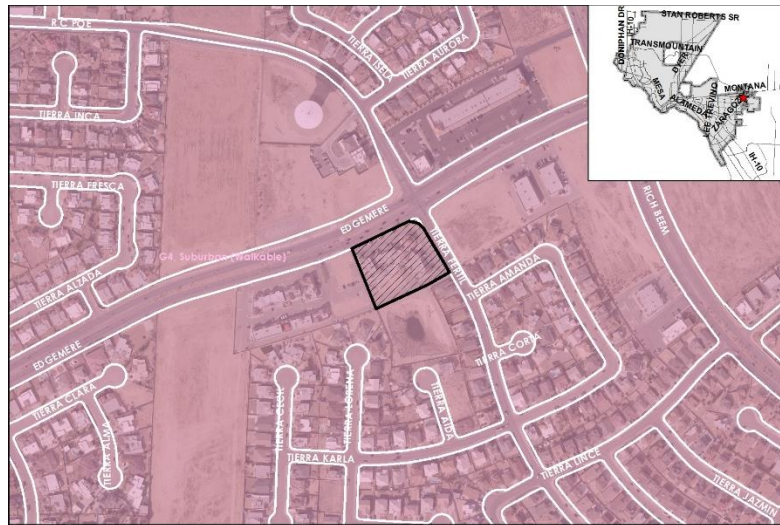


The applicant is requesting to rezone from C-1 (Commercial) to C-2 (Commercial) to allow for a ballroom with a special permit approval. The proposed ballroom is not a permitted use in C-1 (Commercial). The subject property is 2.11 acres in size and currently used as retail, restaurant, and bar. The detailed site plan shows existing retail, restaurant, bar, future offices, and 8,134 sq. ft. ballroom. The development requires 105 spaces and provides 113 spaces and 6 bicycle spaces. The applicant also submitted a special permit to allow for ballroom use (PZST17-00037). Access to the subject property is provided from Edgemere Boulevard and Tierra Fertil Drive.

POLICY	DOES IT COMPLY?
<p><u>Compatibility</u> Proposed zone change matches existing land use map or matches existing land use designation within 300 ft. of the subject property.</p>	<p>Yes, many properties adjacent to the subject property are zoned C-1.</p>
<p><u>Plan El Paso</u> Are preferred locations for higher density development and redevelopment. (i.e. Property is designated G-4)</p>	<p>Yes, the property is designated G-4, Suburban (Walkable) and meets the intent by through the addition of missing commercial uses provided to surrounding neighborhoods within the area of the existing vacant lots and reducing travel and infrastructure needs.</p>

The main map is an aerial view of a residential neighborhood in San Jose, California. A central parcel, outlined in black, is highlighted in pink. This parcel is situated between Edgemere Avenue to the north and Edgemere Avenue to the south. To the west of the highlighted parcel is a street labeled 'EDGEMERE' and a road labeled 'R-3'. To the east is a street labeled 'EDGEMERE' and a road labeled 'R-3A'. The surrounding area is divided into several blocks, each labeled with a street name: 'TIERRA ENCINA' to the northwest, 'TIERRA ENCINO' to the north, 'TIERRA ENCINO' to the northeast, 'TIERRA ENCINO' to the east, 'TIERRA ENCINO' to the southeast, 'TIERRA ENCINO' to the south, 'TIERRA ENCINO' to the southwest, and 'TIERRA ENCINO' to the west. The highlighted parcel is located in the central part of the map, between Edgemere Avenue and Edgemere Avenue. An inset map in the top right corner shows the location of the highlighted parcel within the San Francisco Bay Area, with a red dot indicating its position. The inset map also shows the locations of 'STAN ROBERTS SR', 'TRANSMOUNTAIN', 'MONTANA', 'MONTANA', 'MONTANA', and 'MONTANA'.

COMPLIANCE WITH PLAN EL PASO: The purpose of the application is to introduce a proposed ballroom within the G-4, Suburban (Walkable) land use designation.



RELATION OF PROPOSED CHANGE TO THE CITY'S COMP. PLAN

CONSISTENCY WITH PLAN EL PASO	DOES IT COMPLY?
<u>G-4, Suburban (Walkable)</u> This sector is generally stable but would benefit from strategic suburban retrofits to supplement the limited housing stock and add missing civic and commercial uses.	Yes, The purpose of this project is adding a missing ballroom and office to an established suburban neighborhood.
ZONING DISTRICT	DOES IT COMPLY?
C-2 (Commercial) The zone district is to accommodate establishments providing goods or rendering services which are used in support of the community's trade and service establishments and serving multi-neighborhoods within a planning area of the city. The regulations of the districts will permit intensities designed to be compatible with each other and to provide for a wide range of types of commercial activity, including light automobile related uses.	Yes, a ballroom is a permitted use in C-2 with a special permit approvals and the applicant's use meets all the applicable dimensional standards.
POLICY	DOES IT COMPLY?
Policy 2.2.2. "The design of new neighborhoods and additions to existing neighborhoods should strive for a mix of housing types to create neighborhoods that accommodate diverse ages and incomes and allow residents to trade up, downsize, or create multi-generational households without being forced to leave the neighborhood. Housing types include both small and large single-family detached homes, duplexes,	Yes, the applicant is proposing a retail and ballroom within walking distance of an established residential neighborhood.

townhouses, multi-family buildings, live-work units, and accessory dwelling units, and include both rental apartments and units that can be owned by their occupants."	
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SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The parcel is 2.11 acres in size however the proposed ballroom is not allowed under the current C-1 (Commercial) zoning district.

SUITABILITY OF SITE FOR USES UNDER PROPOSED ZONING: The subject property is 2.11 acres in size and allows the proposed use under the proposed C-2 (Commercial) zoning with a special permit approval. The applicant's proposal meets all dimensional requirements of the C-2 (Commercial) district.

CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE: The intent of the Zoning Ordinance is to protect the public health, safety, and general welfare; to regulate the use of land and buildings within zoning districts to ensure compatibility, and to protect property values. The intent of the C-2 (Commercial) District is to accommodate establishments providing goods or rendering services which are used in support of the community's trade and service establishments and serving multi-neighborhoods within a planning area of the city. The regulations of the districts will permit intensities designed to be compatible with each other and to provide for a wide range of types of commercial activity, including light automobile related uses. The proposed zoning and the proposed use meet the intent of the zoning ordinance.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES: There are existing water and sewer mains along Edgemere Boulevard and Tierra Fertil Drive available for service. The applicant will need to coordinate with EPWater to continue providing services to the property.

EFFECT UPON THE NATURAL ENVIRONMENT: Subject property does not involve greenfield/ environmentally sensitive land or arroyo disturbance.

COMMENT FROM THE PUBLIC: The subject property falls within the boundary of the Las Tierras Neighborhood Association and Eastside Civic Association and was contacted as required by 20.04.520. Notice of a Public Hearing was mailed to all property owners within 300 feet of the subject property on January 25, 2018. Planning Division did not receive any communication in support or opposition to the rezoning request.

STAFF COMMENTS: No objections to proposed rezoning. No reviewing departments had any negative comments. Applicant is responsible for obtaining all applicable permits and approvals prior to any construction or change in occupancy.

OTHER APPLICABLE FACTORS: Approval of the detailed site plan by the City Plan Commission constitutes a determination that the applicant is in compliance with the minimum provisions. Applicant is responsible for the adequacy of such plans, insuring that stormwater is in compliance with ordinances, codes, DSC, and DDM. Failure to comply may require the applicant to seek re-approval of the site plans from CPC.

ATTACHMENTS:

1. Detailed Site Development Plan
2. Zoning Map
3. Future Land Use Map
4. Department Comments
5. Public Notification Boundary Map
6. Letter in Opposition

NOT TO SCALE

[illegible]

DJ08K-00 S&P: CP IDENT IMPROVEMENT

REQUIRED MINIMUM NUMBER OF H/C ACCESSIBLE SPACES	PROVIDED
113/25=4.52	5

[illegible]

COI 7, BLOCK 100, IDORA DEL ESTE
L-418

12798 EXDCE BLY.

EXISTING ZONING.

SETBACKS

FRONT	20"
BACK	26"

ОСТАВШЕГОСЯ

FRONT _____ 10'

BACK _____ 30'

BULL DINIC COLLAR AND

RECEIVED : 6 APR 1977

15 NEW PAINTING SPACES/6 - 16 TOTS -

AREA FOOTAGE
LIVING AREA:
5,584 Sq Ft.
PATIO
2,550 Sq Ft.

SPECIAL PERMIT FOR
A BALLROOM FOR :
GRAND GALA EVENTS LLC.
12798 EDMERE BLVD. BUILDING E
EL PASO COUNTY , TX.

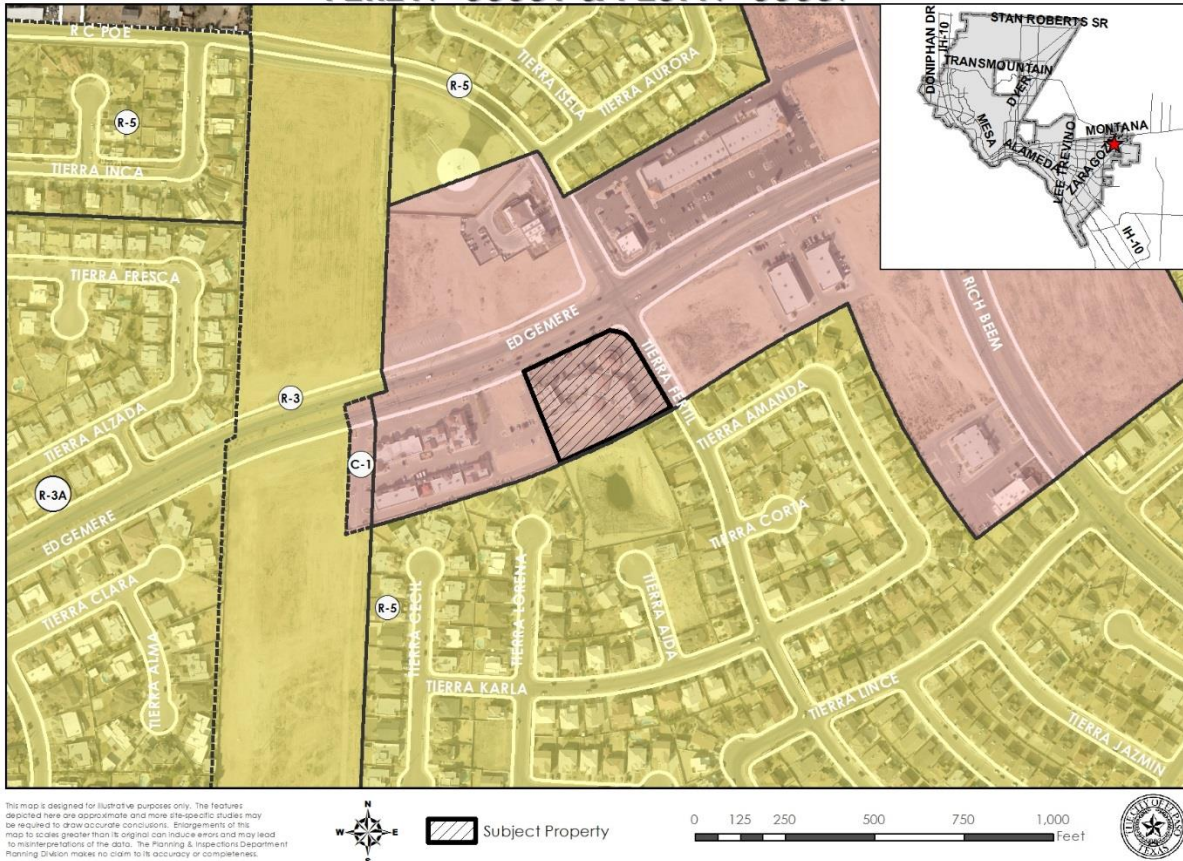
10220 TONYAJOHN LN.
EL PASO TX. 79905

ISSUE DATE :
12-06-2017

ATTACHMENT 2

Zoning Map

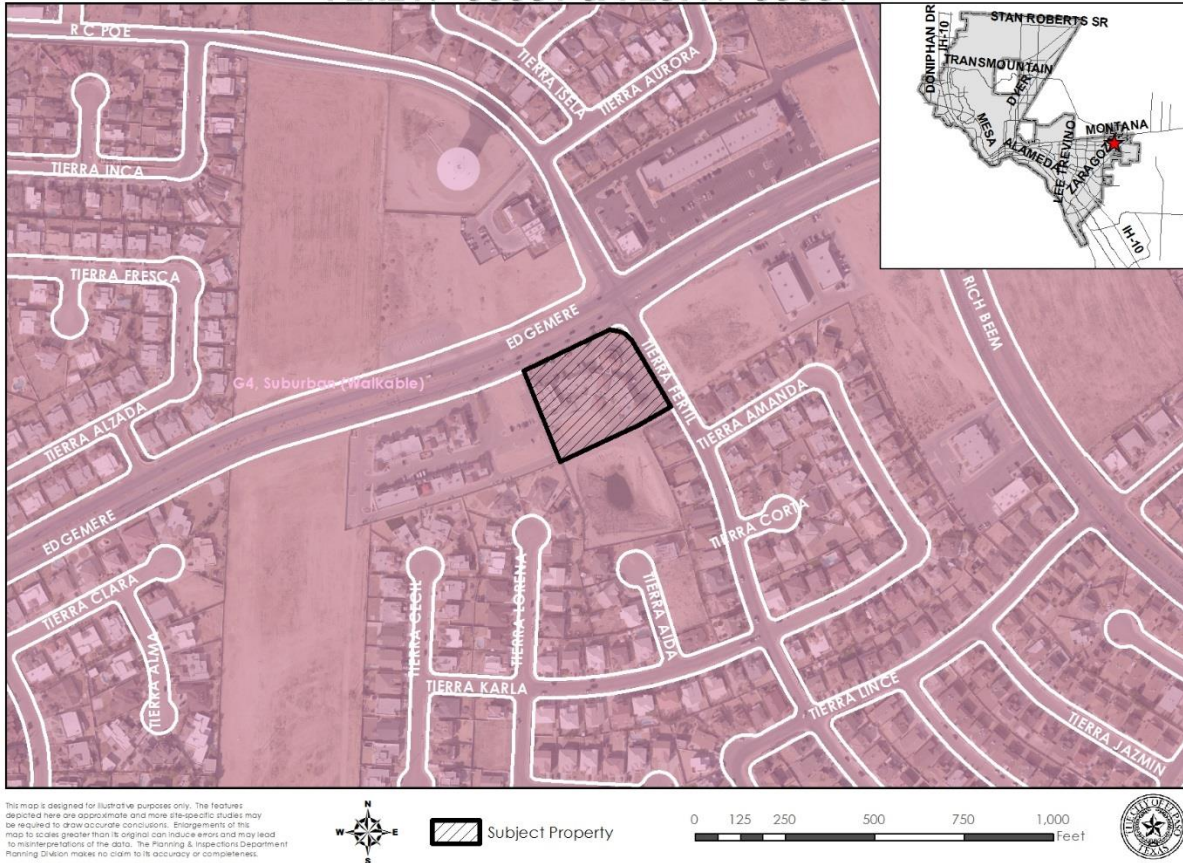
PZRZ17-00031 & PZST17-00037



ATTACHMENT 3

Future Land Use Map

PZRZ17-00031 & PZST17-00037



ATTACHMENT 4

Department Comments

Planning and Inspections Department - Planning Division

No objections to the special permit request.

Texas Department of Transportation

Development is not abutting State Right of Way.

Planning and Inspections Department – Plan Review & Landscaping Division

No objection to proposed special permit.

At the time of submittal for building permits, the project will need to comply with all applicable provisions of the IBC, Municipal Code, and TAS.

Planning and Inspections Department – Land Development

1. No objections to special permit and detailed site development plan review.
2. Approval of the site plans by CPC constitutes a determination that the applicant is in compliance with the minimum provisions. Applicant is responsible for the adequacy of such plans, insuring that storm-water is in compliance with ordinances, codes, DSC, and DDM. Failure to comply may require the applicant to seek re-approval of the site plans from CPC.

Fire Department

Recommended approval.

Sun Metro

Sun Metro does not oppose this request.

Sun Metro routes 51 and 75 provide service along Edgemere with a bus stop as well as a Park and Ride facility directly north of the subject parcel. Route 51 has a bus stop abutting the subject property.

Montana Brio will be providing service along Edgemere in late 2020. The Future Far-East Transfer Center will be located to the north of the subject property.

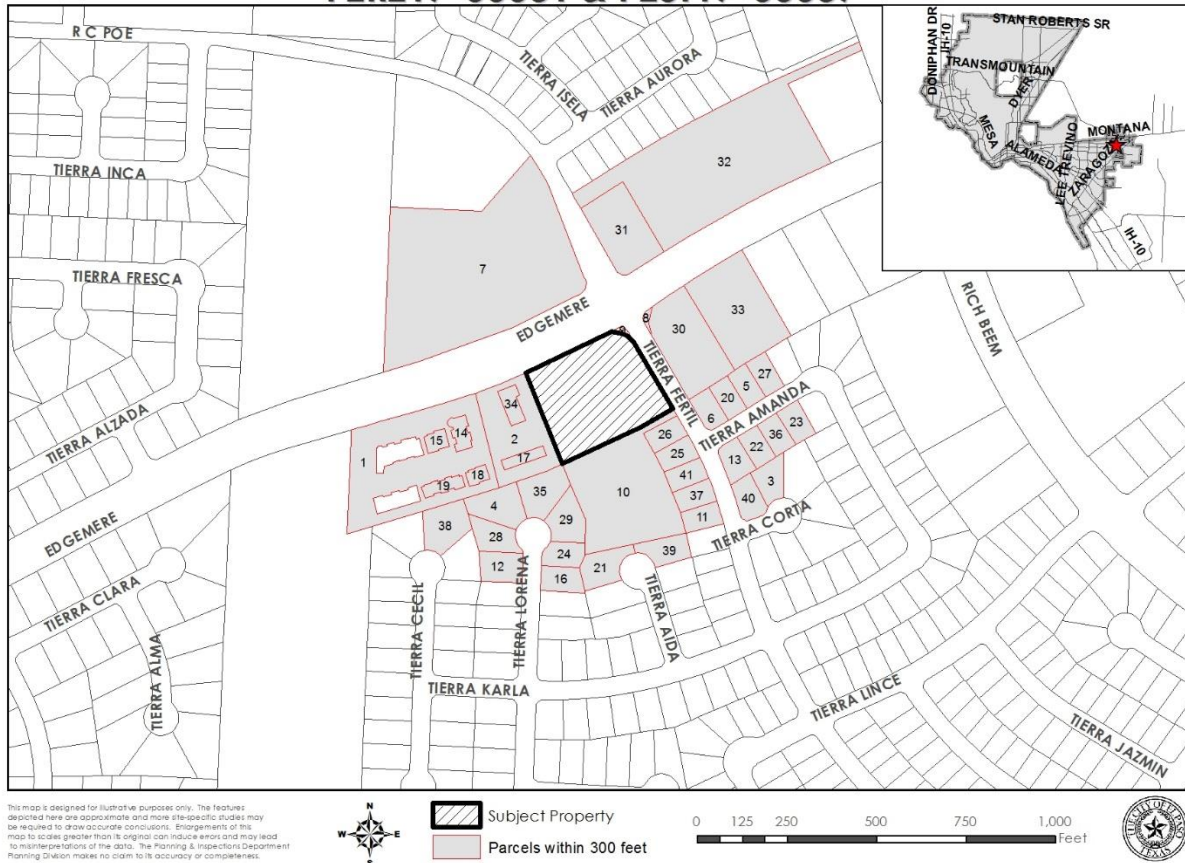
El Paso Water

No comments received.

ATTACHMENT 5

Public Notification Boundary Map

PZRZ17-00031 & PZST17-00037



ATTACHMENT 6

Letter in Opposition

The John and Shelly Martin 2012 Dynasty Trust

NOTICE OF OBJECTION TO REQUEST TO CHANGE ZONING

Via E-mail - sallouman@elpasotexas.gov & Regular U.S. Mail

February 1, 2018

City Plan Commission
c/o Planning Division
Attention: Andrew Salloum
P.O. Box 1890
El Paso, Texas 79950-1890

Re: **Case No.: PZRZ17-00031 and PZST17-00037**
Request to change zoning submitted to the City Plan Commission
Applicant: Dual Enterprises, Inc.
Property: 12798 Edgemere Boulevard
Legal Description: Lot 1, Block 166, Tierra Del Este Unit 48, City of El Paso County, Texas

Dear Mr. Salloum:

The John and Shelly Martin 2012 Dynasty Trust (the "2012 Trust") is the owner of a Portion of Lot 2, Block 166, Tierra Del Este Unit 48 and is situated contiguous (next) to the property to be considered for rezoning. Please consider this letter our official Notice of Objection to the Request to Change Zoning submitted by Dual Enterprises, Inc. The request is to change the zoning from C-1 (Commercial) to C-2 (Commercial) to allow for a ballroom with special permit approval. The applicant is also requesting a special permit in order to allow for a ballroom in C-2 (Commercial) zone district.

Allowing the change of zoning would adversely affect our property and those of our neighboring business owners and tenants. Specifically, the Reciprocal Easement Agreement filed of public record since 2008 (see attached Exhibit "A") would allow the anticipated patrons of a ballroom/party facility to use parking spaces that were intended for patrons of a business park and not a party facility.

The 2012 Trust adamantly objects to the proposed change as it would be detrimental to the integrity of the professional business park created and known as the Quail Park Business Office Park.

In addition, the neighboring single-family homeowners that back-up and are adjacent to the property designated for the zoning changes should all be adamantly opposed to this change too.

Sincerely,

The John and Shelly Martin 2012 Dynasty Trust


John C. Martin, Trustee

6701 N. Mesa, El Paso, Texas 79912 • (915) 545-2222

#411
11 pages

Doc# 20080001813

RECIPROCAL EASEMENT AGREEMENT

Preamble

This Reciprocal Easement Agreement ("Agreement") is entered into on the day of 24th December, 2007 by FIRST NATIONAL BANK, a national banking association ("FNB") and LAND BARONS OF EL PASO DEL NORTE, L.L.C., a Texas limited liability company ("LB").

RECITALS

1. FNB is the owner of Lot 1, Block 166, TIERRA DEL ESTE UNIT FORTY EIGHT, City of El Paso, El Paso County, Texas ("FNB's Parcel").
2. LB is the owner of Lot 2, Block 166, TIERRA DEL ESTE UNIT FORTY EIGHT, City of El Paso, County of El Paso, State of Texas and Lot 1, Block 1, Land Barons Subdivision, City of El Paso, County of El Paso, State of Texas according to the plat thereof recorded in Clerk's File No. 20070114512, El Paso County Clerk's records, (collectively, the "LB Parcel"). FNB's Parcel and LB's Parcel are sometimes referred to as the "Parcels" and individually referred to as the "Parcel".
3. The Parties intend to independently develop the Parcels into separate but adjacent retail and office developments (collectively the "Developments").
4. The parties to this Agreement desire to establish and dedicate non-exclusive, perpetual easements for parking and the vehicular and pedestrian ingress and egress over and across the Common Areas of the respective Parcels.

THEREFORE, the Parties agree as follows:

ARTICLE 1 DEFINITIONS

Common Areas Defined

1.01. The term "Common Areas" means the portions of each Parcel that are from time to time used by a Party and its Users for Parking Areas, roadways and walkways. Each Party shall have the right to alter the Parking Areas, driveways and walkways except that neither Party shall construct any curbs or barriers between the respective Parcels.

Users Defined

1.02. The term "Users" means each of the Parties to this Agreement, their respective successors and assigns of all or any part of the Parcels and any Person entitled at any time to the use and occupancy of a portion of either of the Developments under a lease,

license, concession agreement, or other instrument or arrangement with a Party, and their respective employees, customers and invitees.

Parking Areas Defined

1.03. The term "Parking Areas" means those Common Areas used for the parking of motor vehicles, including incidental roadways, walkways, and landscaping contained within these Parking Areas. However, truck ramps, and loading and delivery areas located in Common Areas and immediately adjacent to buildings in Commercial Areas are not included in "Parking Areas."

Party Defined

1.04. The term "Party" means each Person executing this Agreement, or that Person's successor in interest to all or any portion of a Parcel, as shown by the Real Property Records of El Paso County, State of Texas, and determined as of the time in question.

Person Defined

1.05. The term "Person" means an individual or a partnership, firm, association, corporation, limited liability company trust, or any other form of legal or business entity.

ARTICLE 2 EASEMENTS

Grants of Easements

2.01. (a) LB grants, sells, and conveys to FNB and FNB's successors and assigns a non-exclusive easement for parking and free and uninterrupted pedestrian and vehicular ingress to, egress from, and access to and from and access across the Common Areas from time to time located on the LB Parcel which LB uses from time to time for parking, driveway and walkway purposes for the benefit of all or any portion of FNB Tract, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold the easements, rights, and appurtenances forever. LB binds LB and LB's successors and assigns of any portion of the LB Parcel to warrant and forever defend the title to the easements, rights, and appurtenances in FNB and FNB's successors and assigns against every person whomsoever lawfully claiming or to claim the easement, rights, or appurtenances, or any part thereof. Notwithstanding the foregoing, during construction of the improvements on the FNB Parcel, said easements shall not be used by FNB, or its Users as access for construction vehicles, trucks, tractors and equipment used in construction, or as a staging or storage area for supplies and materials for construction of improvements on the FNB Parcel, or in such manner that blocks or interferes with vehicular and pedestrian access and traffic to and from the LB Parcel.

(b) FNB grants, sells, and conveys to LB and LB's successors and assigns a non-exclusive easement for parking and free and uninterrupted pedestrian and vehicular ingress to, egress from and access to and from and access across the Common Areas from time to time located on the FNB Parcel for parking, driveway and walkway purposes for the benefit of all or any portion of LB Tract, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold the easements, rights, and appurtenances forever. FNB binds FNB and FNB's successors and assigns of any portion of the FNB Parcel to warrant and forever defend the title to the easements, rights, and appurtenances in LB and LB's successors and assigns against every person whomsoever lawfully claiming or to claim the easement, rights, or appurtenances, or any part thereof. Notwithstanding the forgoing, during construction of the improvements on the LB Parcel, said easements shall not be used by LB, or its Users as access for construction vehicles, trucks, tractors and equipment used in construction, or as a staging or storage area for supplies and materials for construction of improvements on the LB Parcel, or in such manner that blocks or interferes with vehicular and pedestrian access and traffic to and from the FNB Parcel.

Use and Location

2.02. The Parties and other Users will be entitled to exercise direct access to and between the Parcels without interference except as set forth in this Agreement and to use all access areas, driveways, and Parking Areas located on any portion of the Parcels in exercising the easements. Except for the two driveways reflected on the Site Plan attached hereto as Exhibit "A", which shall remain unobstructed at all times, a Party may from time to time alter the location of its driveways, walkways, Parking Areas, buildings and other improvements on the portion of the Parcels owned by that Party. A Party's employees, customers, and other invitees will not be entitled to park on the other Party's Parcel and each Party shall take reasonable action to prevent breach of this restriction.

Nature of Easements

2.03. The easements are appurtenant to and for the benefit of each Parcel owned by each Party, whether or not the easements are referenced or described in any conveyance of a Parcel or any portion thereof. These grants of easements benefit the Users and each Party's successors, assigns, who at any time own the Parcels or any interest therein. No easement may be transferred, assigned, or encumbered except as appurtenant to the benefited Parcels.

Repair and Maintenance of Easements

2.04 Each Party is responsible for all maintenance and repairs of the Common Area subject to the easement on its Parcel.

Duration of Easements

2.05 Each easement granted under this Article is perpetual unless terminated by written agreement of all Parties then owing an interest in either of the Parcels.

Rights Reserved

2.06 Each Party reserves for that Party and that Party's successors and assigns the right to continue to use and enjoy the surface of the Parcels for all purposes that do not unreasonably interfere or interrupt the use or enjoyment of the easements.

ARTICLE 3 CONDEMNATION

No Termination

3.01. No taking by eminent domain (or purchase in lieu of taking) of any portion of the Common Area of either Parcel entitles any Party to terminate this Agreement.

Common Areas Taken

3.02. Section 3.03 applies if a taking by eminent domain (or purchase in lieu of taking) occurs with respect to either:

(a) Parking Areas located on the Common Areas, if the remaining Parking Areas, after the taking, violate the then applicable zoning law; or

(b) Any other portion of the Common Areas, if the taking results in a closure of all ingress and egress from adjacent public streets to either of the Developments.

Corrective Plan

3.03. If the criteria of section 3.02 are met, then the Parties must, in good faith, endeavor to agree on a plan of corrective work to either:

(a) Bring the remaining Parking Areas into compliance with the then-applicable zoning law by either obtaining a zoning exception, variance, or by providing substitute, additional Parking Areas.

(b) Provide new ingress and egress routes to and from the adjacent public streets in a way that complies with the then-applicable zoning law.

Cost of Corrective Work

3.04. The owner of the Parcel which is subject to the condemnation shall pay for any corrective work to the Common Areas identified in section 3.02 and agreed to by the Parties.

ARTICLE 4 CHANGE OF OWNERSHIP

Each Party with respect to its Parcel shall use reasonable efforts to notify the other Party in the event of a sale or conveyance of their respective Parcel or any portion thereof, and to provide the name and mailing address of the transferee within ten (10) days thereafter. Any failure to give said notice shall not impair the conveyance of title to the subject property or affect the binding nature of the terms, conditions and obligations attributable to the owner of said Parcel as imposed by this Agreement. Except for duties, liabilities and obligations that accrue during the time a Party owns its respective Parcel, the respective duties, liability and obligations of each Party hereto shall cease upon such Party's sale or conveyance of its entire remaining interest in its respective Parcel, and following any such sale or conveyance, the duties, liabilities and obligations imposed by this Agreement shall be binding upon the successor-in-interest to such Parcel or any portion thereof to the extent such duties and obligations arise during the time that such successor-in-interest owns such Tract or any portion thereof.

ARTICLE 5 DEFAULT, TERMINATION, AND REMEDIES

Legal and Equitable Remedies

5.01. If a Party or User of that Party's Parcel actually breaches or threatens to breach a provision of this Agreement, any other Party has the right to pursue any available legal or equitable remedy, such as damages, injunctions, and restraining orders, in addition to those remedies specified here, except for those remedies that are expressly prohibited. All remedies are cumulative; the pursuit of any available remedy does not constitute a waiver or election of remedies with respect to all other available remedies.

Notice Before Default

5.02. Unless provided otherwise in this Agreement, a Party is not deemed to be in default under this Agreement until that Party has been notified in writing by the other Party that describes the act or omission and either:

(a) The Party fails to cure the default within thirty (30) days after the date of the notice of default ("Cure Period").

(b) If the default is not capable of cure within the Cure Period, the Party fails to commence cure within the Cure Period and to diligently pursue it to completion within a reasonable time.

Termination Not Permitted for Breach

5.03. A breach of this Agreement does not entitle a Party to cancel, rescind, or terminate this Agreement in whole or part.

Right of Nondefaulting Party to Cure

5.04. A Party has the right, but not the obligation, to cure a default of any other Party on behalf of and at the sole expense of the defaulting Party. This right of cure may not be exercised until:

(a) Written notice as provided by section 5.02 has been given.

(b) The Cure Period set forth in section 5.02 has elapsed and the defaulting Party remains in default.

Reimbursement Rights

5.05. If a Party cures a default of another Party under section 5.04, then the defaulting Party must pay to the curing Party:

(a) All reasonable costs and expenses reasonably incurred in effecting the cure, plus interest at the then-maximum legal rate.

(b) All court costs and reasonable attorney's fees incurred by the curing Party.

Force Majeure

5.06. Unless otherwise provided in this Agreement, a Party may be excused from a delay in performance under this Agreement that is caused by the act of a public enemy, war, war defense condition, act of God, the elements, strike, walkout, or other causes beyond the Party's reasonable control. However, each Party must use reasonable diligence to avoid any such delay and to resume its performance as promptly as possible after the delay.

Attorneys' Fees

5.07. In any action between Parties concerning this Agreement or for enforcement of rights and duties of a Party, the prevailing Party in the action is entitled to reasonable attorney's fees.

ARTICLE 6 MISCELLANEOUS

Amendment

6.01. Except as otherwise provided in this Agreement, this Agreement, including its Exhibits, may be cancelled, modified, or amended only by a writing that is executed by all of the Parties. No cancellation, modification, or amendment may require the prior approval or consent of any User.

Covenants Run With Land

6.02. The covenants, restrictions, conditions, and provisions of this Agreement (whether affirmative or negative in nature):

- (a) Are made for the direct, mutual, and reciprocal benefit of each Parcel;
 - (b) Constitute covenants running with the land;
 - (c) Constitute and are enforceable as mutual equitable servitudes on each Parcel in favor of the other Parcel;
 - (d) Bind every person having a fee, leasehold, or other interest in a Parcel;
- and
- (e) Inure to the benefit of the Parties and their respective successors and assigns.

Not a Public Dedication

6.03. Nothing contained in this Agreement may be deemed to be a gift or dedication of any portion of the parcels or Developments to or for the general public or for any public purpose whatsoever. This Agreement is strictly limited to the purposes explicitly set forth here.

Severability

6.04. If a provision of this Agreement is held to be invalid by a court of competent jurisdiction, the remaining portions remain in full force and effect.

Notices

6.05. All notices, statements, demands, requests, approvals, or other communications (collectively referred to as "notices") to be given under or pursuant to this Agreement must be in writing, addressed to the Parties at their respective addresses set forth below. Notices must be delivered in person, or by certified or registered mail, return receipt requested and postage prepaid. Notices are deemed given on the date personal delivery is made or, in the case of mailed notices, the date of delivery indicated on the requested return receipt. Notices to Parties must be sent to the following addresses unless and until a Party changes its address by written notice given to all other Parties:

FIRST NATIONAL BANK
7400 Viscount
El Paso, Texas 79925

LAND BARONS OF EL PASO DEL NORTE, L.L.C.
601 N. Mesa, Suite 100
El Paso, Texas 79901.

No Partnership or Joint Venture

6.06. This Agreement may not be construed or deemed to create a relationship of partnership or joint venture among the Parties or between any of them.

Recordation

6.07. The Parties shall cause this Agreement to be recorded, as soon as possible after the execution of this Agreement, in the Real Property Records of the County of El Paso, Texas.

Effective Date

6.08. The effective date of this Agreement is the date on which it is recorded

This Agreement and instrument is executed this 24th day of December, 2007, at El Paso, Texas.

FIRST NATIONAL BANK

By:


Douglas R. McLean, President

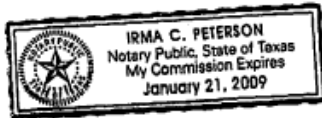
LAND BARONS OF EL PASO DEL NORTE, L.L.C.

By: [Signature]
Ron Costa, Manager

By: [Signature]
John Martin, Manager

STATE OF TEXAS)
COUNTY OF EL PASO)

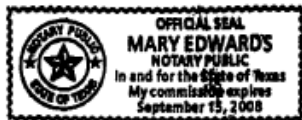
This instrument was acknowledged before me on this 24th day of Dec, 2007,
by Douglas R. McLean, President of First National Bank, a national banking association, on
behalf of said association.



[Signature]
NOTARY PUBLIC, STATE OF TEXAS

STATE OF TEXAS)
COUNTY OF EL PASO)

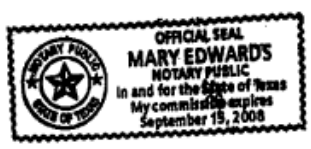
This instrument was acknowledged before me on this 7th day of
January, 2007, by Ron Costa, Manager of Land Barons of El Paso Del Norte,
L.L.C., a Texas limited liability company, on behalf of said company.

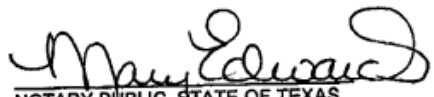


[Signature]
NOTARY PUBLIC, STATE OF TEXAS

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 7th day of January, 2007, by John Martin, Manager of Land Barons of El Paso Del Norte, L.L.C., a Texas limited liability company, on behalf of said company.




NOTARY PUBLIC, STATE OF TEXAS

Site Plan showing Two Driveways
and anticipated Improvement Locations

